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SUBJECT: AUSTRIA: ASYLUM REFORMS DESIGNED TO EXPEDITE DEPORTATION IN
"DUBLIN CASES"

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¶1. (U) Summary: The Austrian Parliament on October 21 adopted a set of reforms designed to facilitate the detention and deportation of unsuccessful asylum applicants. Many asylum seekers apply in Austria after passing through another EU country, and the reforms are designed in large part to expedite the return of those applicants to their point of first entry within the EU. The legal amendments were supported by the governing Social Democrats (SPO) and People's Party (OVP) in an effort to address anxieties about immigration and widespread perceptions of abuse of the asylum process. End Summary.

Asylum Law Changes

¶2. (U) Under the amendments to the Asylum Law:

-- Authorities will be able to more easily detain asylum applicants awaiting deportation in cases where the applicants entered Austria after passing through another EU country (known as "Dublin cases"). Such applicants would, in most cases, be deported to the country where they first entered the EU.

-- Applicants rejected for asylum may be deported while their follow-up applications are pending, in cases where the new applications appear to lack justification. (Note: Rejected asylum seekers often file follow-up applications claiming that the situation in their home country, or their personal circumstances, have changed in some way that could affect their case).

-- X-ray exams can be used to determine the age of asylum seekers claiming to be minors, and DNA tests to verify claims of family relations. (Note: Applicants sometimes make false claims about their age in order to benefit from the more favorable rules applied to minors).

-- Asylum applicants' freedom of movement will be restricted to the district of the refugee camp to which they are assigned for the duration of their initial application process. Previously, freedom of movement could only be restricted for a period of 20 days after starting the initial process.

Asylum Seekers in Austria

¶3. (U) Between January and September of this year, 11,583 persons filed asylum applications in Austria, 16 percent of whom were recognized as refugees. The biggest groups were Chechens, Afghans and Kosovars, followed by Georgians, Serbs and Nigerians. Recognition rates were highest among Iraqis (51 percent), Afghans (44 percent), and Chechens (28 percent). In 2008, 12,844 asylum seekers filed applications, 31 percent of whom were recognized as refugees.

¶4. (U) The reforms are aimed at addressing widespread concerns over abuses of the asylum process and the perceived connection between asylum applicants and rising crime. Illegal aliens sometimes file asylum applications to avoid deportation after being caught by police. Some asylum seekers, particularly Nigerian and Georgian nationals according to GOA statistics, have been recruited by organized crime rings engaged in drug trafficking and burglary, a problem exacerbated by the fact that asylum seekers are generally barred from seeking employment in Austria. Since Austria is surrounded by neighbors considered "Safe Third Countries" under the Dublin Regulation, the law is designed to expedite the return of asylum seekers to the country where they first entered the EU, in accordance with the Regulation.

Greens, NGOs Opposed

¶5. (U) The opposition Green Party and human rights NGOs reject the legislation as a remedy for these problems. They argue that systematically detaining asylum seekers in "Dublin cases" violates human rights principles and will overload Austria's detention facilities. They also maintain that the law, by expediting the process, will make it impossible to properly review applications. In particular, they question whether legal experts and interpreters will have sufficient time to advise asylum seekers. Critics of the legislation argue that the GOA should, instead, allow asylum applicants to work legally while their status is pending, an unpopular idea rejected by most of the political parties.

Comment: Ruling Parties Under Pressure

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¶6. (SBU) The governing SPO and OVP are feeling the heat from the successful efforts of the rightwing Freedom Party (FPÖ) to exploit public anxieties over immigration. While they are unwilling to engage in FPÖ-style immigrant-bashing, these reforms are an attempt to demonstrate that they too are tough on immigration, at least the illegal kind. With the EU moving toward a uniform asylum policy, the GOA reforms indicate Austria will draw a hard when the details are hammered out.